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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/470,537	12/22/1999	BRANDON A. GROOTERS	98-0722	6274

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GATEWAY, INC.
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EXAMINER

YENKE, BRIAN P

ART UNIT	PAPER NUMBER
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2614

DATE MAILED: 09/30/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action

Application No.

09/470,537

Applicant(s)

GROOTERS, BRANDON A. *AM*

Examiner

BRIAN P. YENKE

Art Unit

2614

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 23 August 2002 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.


Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____.

Continuation of 5. does NOT place the application in condition for allowance because: In regards to claims 1-26, applicant states that Darbee does not teach "determines whether event related program guide data is available in the second information handling system, and, in the event that related program guide data is not available, the second information handling system sends a request for the program guide data to the first information handling system." The examiner disagrees, Darbee specifically discloses a remote control system which receives via a selective download (col 3, line 32-34) advertising and programming data which is stored in the remote control. The selective download occurs upon the identification of the remote control unit itself, an identification of the user of the remote control or upon some assessment of the viewing habits or preferences of the user. Darbee also discloses that an object of the remote control is to store only a subset of available program guide and/or advertising information. The subset could be specific channels, specific areas of user interest, specific genres of programming or specific times. Darbee also discloses new program guide data being provided to the remote each time that a user activates the remote control or selects a channel for viewing. Darbee also discloses that the software application running on the remote obtains and causes to be stored in memory data indicative of the viewing habits of the viewer. Also, Darbee discloses transmitting the the stored program/content selection history, address and user identification to a set-top box or provider/host system, which provides the remote a tailored/filtered data corresponding to the remote transmitted data. Thus, , Darbee once a user identification is entered/established, the remote software application, acknowledges a new user, thus, also acknowledges that program data/advertising information are not stored in the remote, since the remote only stores subsets of available program guide and/or advertising information, and thereby transmits to set-top box/TV/host the new user identification, and subsequently is able to filter/selectively retrieve the downloaded information. In regards to claims 27-30, the applicant states Darbee not teach or suggest "guide data is displayed by both the first information handling system and the second information handling system". The examiner disagrees, since Darbee discloses in the background, that EPG's are normally displayed on the screen of a television set or set-top box, with the guide data either replacing or overlaying the program the user is watching (col 1, line 29-39). Thus if the guide data replaces the television program, the user will view the guide only, however if the guide data overlays the television program, the user will be able to view both guide data and television program, where an overlay displays the complete guide data and portion or all of the television program based upon the control/sizing of the display device.


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